



ORDERS OF PROTECTION & INJUNCTIONS AGAINST HARASSMENT

(A.R.S. §§12-809; 13-3602)

Office of the Staff Judge Advocate, Luke AFB, AZ, (623) 856-6901

Orders of Protection and Injunctions Against Harassment are immediate remedies available to victims of violence or harassment. They are often provided in ex parte hearings, i.e., the judge only listens to one party before granting the Order/Injunction.

An **Order of Protection** is available for the purpose of restraining a person from committing an act of domestic violence. Typically, a person will get an Order of Protection against a spouse due to physical violence. An Order of Protection can also be used for other relationships, including an ex-spouse, the parent of your child, someone with whom you were previously or are currently involved, your roommate or former roommate, or a relative.

An **Injunction Against Harassment** is intended for a victim who can prove that he/she has been the target of a pattern of conduct (more than two occasions) over any period of time that seriously alarms, annoys or harasses the person and which serves no legitimate purpose. The defendant can be anyone, whether or not related to you.

REQUIREMENTS

An Order of Protection or Injunction Against Harassment will not be granted:

- Unless the party who requests the order files a written verified petition
- Against a person under 12 yrs (unless granted by the Juvenile Division of the Superior Court)
- Against more than one defendant

ORDERS OF PROTECTION

Orders of protection are granted if the court determines that there is reasonable cause to believe:

- The defendant may commit an act of domestic violence
- The defendant has committed an act of domestic violence within the past year

Orders of Protection should generally be filed by the plaintiff. A third party may, however, request an Order on behalf of a plaintiff, if he/she is an appropriate requesting party. If the person seeking protection is a minor, generally, a parent, legal guardian, or the person who has legal custody must request the Order. Children, family members, or friends can be included in your Order of Protection if the judge determines it is appropriate. If your family friend is an adult, the judge may require that this person be present when requesting the protective order. Also, the Order may be served by the local police agency, sheriff, or constable.

Relief Granted

If a court issued an Order of Protection, it may do any of the following:

- Enjoin the defendant from committing a violation of one or more of the offenses of domestic violence
- Grant one party exclusive use and possession of the parties' residence on a showing that there is reasonable cause to believe that physical harm may otherwise result

- Restrain the defendant from contacting the plaintiff or other designated persons and from coming near the residence, place of employment or school of the plaintiff. Even if you initiate contact, the defendant could be arrested for violating the Order of Protection. If the defendant does not want you to contact him/her, the defendant has the right to request a protective order against you
- Prohibit the defendant from possessing, receiving, or purchasing firearms;
- If defendant was present at the hearing, require defendant to complete a domestic violence offender treatment program
- Grant relief necessary for the protection of the victim

INJUNCTIONS AGAINST HARRASMENT

To grant an Injunction Against Harassment, the Court must find reasonable evidence of harassment of the plaintiff by defendant during the preceding year or that good cause existed to believe that great or irreparable harm would result to Plaintiff if the injunction is not granted before defendant can be heard in opposition.

Relief Granted

If the Court issues an Injunction, it may do any of the following:

- Enjoin the defendant from committing a violation of one or more acts of harassment;
- Restrain the defendant from contacting the plaintiff or other persons and from coming near the residence, place of employment or school of the plaintiff;
- Grant relief necessary for the protection of the victim.

HOW LONG IS THE ORDER OR INJUNCTION EFFECTIVE?

An Order of Protection or Injunction Against Harassment is effective only after it has been properly served on the other person. There is no fee for law enforcement service of any Order of Protection or for Injunctions Against Harassment involving a dating relationship. There is a fee to serve an Injunction Against Harassment not involving a dating relationship or an Injunction Against Workplace Harassment. The Court will instruct you on how service can be made. If you cannot afford to hire a process server, you can ask the judge to defer or waive the fee.

The Order of Protection or Injunction Against Harassment will remain in effect for **one year**. You must renew the Order/Injunction to extend it past that period. At any time during the one-year period, the defendant may request, in writing, a hearing before the court which issued the order. The defendant is entitled to a hearing within 10 days of the date of the request, unless there are compelling reasons not to do so. If a hearing is scheduled, make sure that you attend the hearing and present your reasons for keeping the Order/Injunction in force. If you do not show up at the hearing, it is possible that the Order/Injunction will be set aside.

VIOLATION OF THE ORDER OR INJUNCTION:

An Order/Injunction issued in Arizona is valid throughout the State. If the defendant violates the Order/Injunction, **notify the police immediately. Carry the Order/Injunction with you at all times in the event the defendant violates the order and the police must be called to intervene.** Police, with or without a warrant, may arrest the defendant for violation of the Order/Injunction. If a defendant is released, the court must set forth the conditions of release necessary to provide for your protection and that of others designated in the Order/Injunction. The court must notify all persons protected under the Order/Injunction of the defendant's release.

EMERGENCY ORDERS OF PROTECTION

A rotating judge, justice of the peace, magistrate, or commissioner may issue an Emergency Order of Protection by telephone if the incident occurs after 1700 or on the weekends. If you are in immediate danger, call 911. If you are not in immediate danger, you can locate your local law enforcement by dialing 411 (your telephone service provider may charge you a fee to dial 411). When officers arrive at the scene, they will determine whether the circumstances warrant an emergency order. The relief available is the same as that available by a regular Order of Protection. Emergency Orders of Protection are **in effect only until the close of the next day of judicial business following the day the Emergency Order was issued**. This allows plaintiff time to go to court on a business day and obtain a regular Order of Protection.

INFORMATION NEEDED TO FILE THE PETITION

Copies of all police reports, medical records, financial records and any other documents that will support your petition or application to waive/defer court costs are helpful. At a minimum, the petition must contain the following:

- Information about you (petitioner)
 - Address (may request the address not be listed)
 - Phone
 - Employer information
- Information about the defendant (the person you want to stay away from you)
 - Address
 - Phone
 - Accurate description of the defendant
- Relationship to the defendant
 - Spouse / Ex-spouse
 - Other (specify)
- Previous Order of Protection or Injunction Against Harassment relating to the defendant, including the dates of orders, the court issuing the orders, and the type of orders issued
- Specific statement, including dates, detailing how an act of domestic violence was threatened or committed against you within the last year
- Relief requested

WHERE TO OBTAIN AN ORDER/INJUNCTION

Orders of Protection and Injunctions Against Harassment can be obtained from any magistrate, justice of the peace, or county superior court judge in Arizona. To request an Order/Injunction, complete a petition at a local court. Applications for waiver or deferral of court costs may also be obtained from the court clerk.

The closest courts to Luke AFB include the following:

Glendale City Court 5711 W. Glendale Avenue Glendale, AZ 85301 Phone: 623.930.2400 Fax: 623.937.8860 No Charge to File Order or Injunction *Service or delivery fee may apply.	Surprise City Court 16081 N. Civic Center Plaza, Suite 105 Surprise, AZ 85374 Phone: 623.222.4800 Fax: 623.222.4801 No Charge to File Order or Injunction *Service or delivery fee may apply.	Phoenix Municipal Court 300 W. Washington Street Phoenix, AZ 85003 602.262.6421 General Info 602.262.7120 Order/Injunction No Charge to File Order or Injunction *Service fee only for Injunctions Against Harassment that are not dating relationships (\$40.00).
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RESOURCES

An Order of Protection is a legal restraint; it is only a piece of paper. You must still take steps to ensure your safety. If the defendant violates the Order of Protection or Injunction Against Harassment, in an emergency call 911.

National Domestic Violence Hotline: (800) 799-7233

Arizona Coalition Against Sexual and Domestic Violence: (800) 782-6400, (602) 279-2900

Attorney General's Office of Victim Services: (602) 542-4911

For more information, contact the base legal office at (623) 856-6901.

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